

**AMENDMENT TO H.R. 5658, AS REPORTED
OFFERED BY MR. STUPAK OF MICHIGAN**

At the end of subtitle A of title XXVIII, insert the following:

1 **SEC. 28___ USE OF IRON AND STEEL PRODUCED IN THE**
2 **UNITED STATES IN MILITARY CONSTRUC-**
3 **TION PROJECTS IN THE UNITED STATES.**

4 (a) **IN GENERAL.**—Notwithstanding any other provi-
5 sion of law, the Secretary of Defense and the Secretary
6 of each military department shall not obligate or expend
7 funds appropriated to the Secretary, or provide financial
8 assistance using funds appropriated to the Secretary, for
9 a military construction project inside the United States
10 unless all of the iron and steel used in such project is pro-
11 duced in the United States.

12 (b) **EXCEPTIONS.**—The provisions of subsection (a)
13 shall not apply in any case in which the Secretary con-
14 cerned finds—

15 (1) that their application would be inconsistent
16 with the public interest;

17 (2) that iron and steel are not produced in the
18 United States in sufficient and reasonably available
19 quantities and of a satisfactory quality; or

1 (3) that inclusion of iron and steel produced in
2 the United States will increase the cost of the overall
3 project contract by more than 25 percent.

4 (c) WRITTEN JUSTIFICATION FOR WAIVER.—

5 (1) NOTICE AND COMMENT.—If the Secretary
6 concerned determines that it is necessary to waive
7 the application of subsection (a) based on a finding
8 under subsection (b), the Secretary shall, before the
9 waiver becomes effective—

10 (A) publish in the Federal Register a de-
11 tailed written justification as to why the waiver
12 is needed; and

13 (B) provide the public with a reasonable
14 period of time for notice and comment.

15 (2) ANNUAL REPORT.—Not later than one year
16 after the date of enactment of this Act, and annually
17 thereafter, the Secretary of Defense shall submit to
18 Congress a report on—

19 (A) any waivers granted under subsection
20 (b) in the preceding year, including justifica-
21 tions for the waivers; and

22 (B) any obligation or expenditure of funds
23 in the preceding year that did not conform to
24 the requirements of this section due to limita-

1 tions imposed by a treaty, agreement, or other
2 provision of law.

3 (d) RELATIONSHIP TO STATE REQUIREMENTS.—The
4 Secretary concerned shall not impose any limitation or
5 condition on financial assistance provided using funds ap-
6 propriated to the Secretary that restricts any State from
7 imposing more stringent requirements than this section on
8 the use of iron and steel from foreign countries in projects
9 carried out with such assistance or restricts any recipient
10 of such assistance from complying with such State im-
11 posed requirements.

12 (e) INTENTIONAL VIOLATIONS.—If it has been deter-
13 mined by a court or Federal agency that any person inten-
14 tionally—

15 (1) affixed a label bearing a “Made in Amer-
16 ica” inscription, or any inscription with the same
17 meaning, to any product used in projects to which
18 this section applies, sold in or shipped to the United
19 States that was not made in the United States; or

20 (2) represented that any product used in
21 projects to which this section applies, sold in or
22 shipped to the United States that was not produced
23 in the United States, was produced in the United
24 States;

1 that person shall be ineligible, for a period of 6 years be-
2 ginning on the date of the determination, to receive any
3 contract or subcontract made with funds authorized to be
4 appropriated to the agency pursuant to the debarment,
5 suspension, and ineligibility procedures in subpart 9.4 of
6 chapter 1 of title 48, Code of Federal Regulations.

7 (f) LIMITATION ON APPLICABILITY OF WAIVERS TO
8 PRODUCTS PRODUCED IN CERTAIN FOREIGN COUN-
9 TRIES.—If the Secretary concerned, in consultation with
10 the United States Trade Representative, determines
11 that—

12 (1) a foreign country is a party to an agree-
13 ment with the United States and pursuant to that
14 agreement the Secretary has waived the require-
15 ments of this section; and

16 (2) the foreign country has violated the terms
17 of the agreement by discriminating against products
18 covered by this section that are produced in the
19 United States and are covered by the agreement,
20 the provisions of subsection (b) shall not apply with re-
21 spect to the Secretary in connection with products pro-
22 duced in that foreign country.

23 (g) APPLICATION OF REQUIREMENTS TO ENTIRE
24 PROJECT.—The requirement of subsection (a) and the ex-
25 ceptions specified in subsection (b) apply to the total of

- 1 obligations and expenditures for an entire project and not
- 2 only to obligations and expenditures for component parts
- 3 of such project.